

REMARKS/ARGUMENTS

These remarks are made in response to the Office Action of March 26, 2008 (Office Action). As this response is timely filed within the 3-month shortened statutory period, no fee is believed due. However, the Examiner is expressly authorized to charge any deficiencies to Deposit Account No. 50-0951.

Specification

The Specification was objected to as failing to provide proper antecedent basis for the claimed subject matter. More specifically, it was asserted that the term "computer-readable storage medium" is not properly supported within the Specification.

Although Applicants believe that the term "computer-readable storage medium" is a commonly-accepted and often-used term to describe a category of claims, just like the terms "method" and "device," which do not require antecedent basis in the specification, a paragraph has been added to the Specification to mention this term.

Claim Objections

Claims 1-2, 4-14, 16-18, and 20-25 were objected to due to informalities.

Appropriate correction has been made.

Claim Rejections – 35 USC § 101

Claims 10, 11, and 23 were rejected under 35 U.S.C. § 101 because these claims are drawn toward a system comprising an application domain, which can reasonably be constructed as software alone.

It is noted that the application domain is implemented within a computer implemented system which can be implemented as hardware or a combination of hardware and software. The transition term "comprising" does not exclude the computer implemented system from having other components or modules that are implemented as hardware.

It is also noted that "a computer operating pursuant to software *may* represent patentable subject matter, provided, of course, that the claimed subject matter meets all of the other requirements of Title 35." *In re Alappat*, 33 F.3d 1526, 1540-41, 31 USPQ2d 1545, 1558 (Fed. Cir. 1994) (*en banc*). At issue in *Alappat* were claims drawn to a so-called "rasterizer," which is used in a digital oscilloscope to smooth waveform data prior to displaying the waveform on the oscilloscope screen. The invention lay in the general architecture and operation of the rasterizer that substantially eliminated the appearance of discontinuities in the waveform by changing the intensity of each pixel depending on the pixel's proximity to a waveform vector. The majority opinion stated that just because the claims cover a programmed general purpose computer does not render the claims non-statutory. Instead, a programmed general purpose computer becomes a new machine once a computer program is loaded into memory, and is therefore eligible for patent protection.

In view of the above, Applicants respectfully request that the claim rejections under 35 U.S.C. § 101 be withdrawn.

Claim Rejections – 35 USC § 112

Claims 1-2, 4-13, 17-18, and 20-25 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

The language of the claims has been amended to overcome the rejections.

In view of the above, Applicants respectfully request that the claim rejections under 35 U.S.C. § 112, second paragraph, be withdrawn.

Double Patenting

Claims 1, 5-10, 14, 16-17, and 21-25 were rejected on the grounds of non-statutory obviousness-typed double patenting as being unpatentable over Claims 1, 4-5, and 8-10 of U.S. Patent No. 7,337,363 B2.

A terminal disclaimer is submitted herewith to obviate the double patenting rejection.

In view of the above, Applicants respectfully request that the double patenting rejection be withdrawn.

CONCLUSION

Applicants believe that this application is now in full condition for allowance, which action is respectfully requested. Applicants request that the Examiner call the undersigned if clarification is needed on any matter within this Amendment, or if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,

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